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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,275	01/04/2002	Pao-Hsien Fang		6816

7590 07/16/2003

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EXAMINER

VAN, QUANG T

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/038,275

Applicant(s)

FANG, PAO-HSIEN

Examiner

Quang T Van

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-11 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

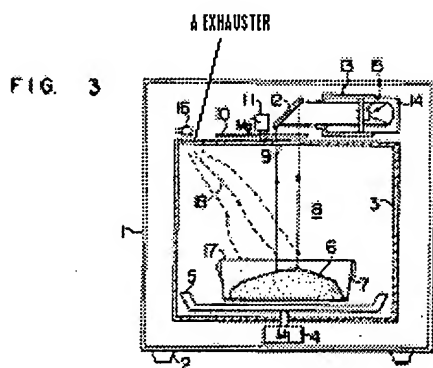
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4, 6-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueda (US 4,350,860). Ueda discloses a heating apparatus with sensor comprising a microwave power chamber (22), a rotator (27), a substrate or ginkgo leave acceptance (28), exhauster (24), humidity sensor (20), and temperature sensor (38). Since the claims are apparatus claims; therefore, no patentable weight is given to a heating material because the "Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims." *In re Young*, 75 F.2d 966, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)). In this case, no patentable weight is given to the heating material such as, "the ginkgo leaves" which is claimed in claim 4.

3. Claims 1-2, 4, 6-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanazawa et al (US 4,379,964). Kanazawa discloses a heating apparatus comprising a microwave power chamber (3), a rotator (4), a substrate or ginkgo leave acceptance (5), exhauster (A, see figure below), humidity sensor (16), and

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temperature sensor (15). Since the claim is apparatus claim; therefore, no patentable weight is given to a heating material because the "Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims." *In re Young*, 75 F.2d 966, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)). In this case, no patentable weight is given to the heating material such as, "the ginkgo leaves" which is claimed in claim 4.



### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US 4,350,860) or Kanazawa et al (US 4,379,964) in view of Nambu et al (US 4,660,298).

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Ueda and Kanazawa disclose substantially all features of the claimed invention except the rotator is made of a hollow cylinder with controllable rate of rotation. Nambu discloses a drying apparatus having a rotator is made of a hollow cylinder with controllable rate of rotation (col. 3, lines 26-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Ueda and Kanazawa a rotator is made of a hollow cylinder with controllable rate of rotation as taught by Nambu in order to provide the even heating power to the heating material.

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US 4,350,860) or Kanazawa et al (US 4,379,964) in view of Tran (US 4,631,380). Ueda and Kanazawa disclose substantially all features of the claimed invention except a material feeder is incorporated in a conveyor belt. Tran discloses a system for microwave treatment of materials having a material feeder is incorporated in a conveyor belt (33, figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Ueda and Kanazawa a material feeder is incorporated in a conveyor belt in order to provide a facilitation of an assembly production.

7. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or suggest the exhaustor being an

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extension tube of the rotator with a narrower diameter than that of the rotator as recited in claim 5.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Van whose telephone is 703-306-9162. The examiner can normally be reached 8:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for this group is 703-782-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-308-0861.



QV

July 11, 2003



QUANG T. VAN  
PATENT EXAMINER